

examined the Magistrate Judge's Report and Recommendation, as well as plaintiff's Objections.

The Court is of the opinion that the objections of the plaintiff should be OVERRULED and the Report and Recommendation of the United States Magistrate Judge should be ADOPTED.

This Court, therefore, does OVERRULE plaintiff's objections, and does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge.


IT IS THEREFORE ORDERED that the Civil Rights Claims by plaintiff BENJAMIN FRANKLIN SMITH against defendant NORTHWEST TEXAS HOSPITAL are DISMISSED WITHOUT PREJUDICE FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. . The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

IT IS SO ORDERED.

ENTERED this 28th day of May, 2009.


MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE